

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:19-cr-9-KS-MTP

HOPE EVANGULANE THOMLEY and
HOWARD RANDALL THOMLEY

STIPULATED AND AGREED ORDER

On the Joint Motion of the United States of America, by and through the United States Attorney and the undersigned Assistant United States Attorney for the Southern District of Mississippi, and Claimant, Collins Pipeline Company (“Collins”), pursuant to a stipulated forfeiture settlement agreement in this matter and a previous settlement agreement in the related civil case (*United States v. Real Property Located at 19 Crane Park, et al.*, 2:18-cv-165-KS-MTP), (the “Civil Action”); the Court finds as follows:

On January 20, 2016, the United States filed a civil forfeiture complaint in the Civil Action against parcels identified as SS, TT, UU, VV, and WW (referenced as asset C1 in the instant criminal case, and identified as asset C-045 in the amended civil forfeiture complaint) (the “Property”). *See id.*, Compl., ECF No. 1. On June 7, 2016, after the United States sent notice to all known interested parties, Collins timely filed a Verified Claim [ECF No. 52] on parcels identified as UU and VV and, on June 27, 2016, an Answer and Counterclaim [ECF No. 104]. On February 10, 2017, the United States filed a First Amended Complaint [ECF No. 183]. On September 26, 2016, the parties entered into a Stipulated Settlement Agreement [ECF No. 155-1].

In this agreement, the United States acknowledged and agreed that:

Collins owns a pipeline easement and right-of-way situated on the Property in conjunction with a valid right-of-way agreement that was entered in the records of the Chancery Clerk of Lamar County, Mississippi, at Book 4-U, Page 23-25 on June 10, 1970, and in the records of the Chancery Clerk of Covington County, Mississippi on September 24, 1969, at Book 116, Page 213, both before the United States filed its Complaint for Forfeiture.

Collins' pipeline, easement and right-of-way are not subject to forfeiture in the instant action. The United States' rights in and to the Property under the instant action are subordinate to the rights of Collins under the recorded right-of-way agreements, and an entry of a Judgment of Forfeiture for the Property under the instant action will not have the legal effect of extinguishing, cancelling or otherwise terminating the right-of-way or Collins' interest therein.

Collins' rights to the easement and right-of-way in asset C1 in the instant criminal case, previously identified as parcels SS, TT, UU, VV, and WW in the initial complaint in the Civil Action and as asset C-045 in the amended civil forfeiture complaint, are acknowledged and shall be honored, pursuant to the settlement agreement, and any purchaser of the property from the United States or anyone claiming an interest through this forfeiture proceeding, shall also be bound by the same terms and conditions of the settlement agreement and Order entered in the Civil Action [ECF No. 158].

To the extent that Rule 32.2 of the Federal Rules of Criminal Procedure or 21 U.S.C. §853—or any other statute—requires Collins to file a claim in the instant case, the Court recognizes that the claim filed by Collins in this action on or about May 10, 2019, [ECF No. 41] constitutes a valid and timely claim.

SO ORDERED this the 30th day of August, 2019.



U.S. DISTRICT JUDGE

AGREED TO AND APPROVED AS TO FORM:

D. MICHAEL HURST, JR.
UNITED STATES ATTORNEY

By: /s/ J. Wesley Webb
J. WESLEY WEBB
Assistant United States Attorney
Office of the United States Attorney
SOUTHERN DISTRICT OF MISSISSIPPI
501 E. Court Street, Suite 4.430
Jackson, MS 39201
MBN: 104495
Telephone: (601) 965-4480
Fax: (601) 965-4409
E-mail: james.webb2@usdoj.gov

COLLINS PIPELINE COMPANY

By: /s/ W. Whitaker Rayner
W. Whitaker Rayner
Jones Walker, LLP
P. O. Box 427
Jackson, MS 39205-0427
Telephone: (601) 949-4900
Fax: (601) 949-4804
E-mail: wrayner@joneswalker.com
Counsel for Collins Pipeline Company